

REMARKS

This communication is responsive to the Office Action received December 24, 2009. In the Office Action of December 24, 2009, claims 1, 2, 4-9, 11-16, 18-23, and 25-28 were provisionally rejected under the doctrine of obviousness-type double patenting over claims 1-44 of copending Application No. 10/730,897. Claims 4-7, 11-14, 18-21 and 25-28 were objected to for being dependent on cancelled parent claims 3, 10, 17, and 24 respectively. Claims 1, 2, 4, 8, 9, 11, 15, 16, 18, 22, 23 and 25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot et al., U.S. Patent No. RE38865 ("Dumarot") in view of Sugino et al., U.S. Patent No. 7,512,888. Claims 5, 6, 12, 13, 19, and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot in view of Sugino and in further view of APA. Claims 7, 14, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Dumarot in view of Sugino, APA, and further in view of Bowker. Claims 1, 2, 4-9, 11-16, 18-23, and 25-28 are now pending in this application. Independent claims 1, 8, 15, and 22 have been amended in order to clarify the subject matter that the Applicant considers to be the invention. Claims 4, 5, 7, 11, 12, 14, 18, 19, 21, 25, 26, and 27 have been amended to overcome informalities such as dependency on a cancelled claim and failure to capitalize a trademark. No new matter has been added.

Provisional Double Patenting Rejection

Regarding the provisional double patenting rejection, as this rejection is currently provisional, if copending Application No. 10/730,897 is allowed prior to allowance of the present application, the Applicant will file a Terminal Disclaimer in the present application.

Claim objection

Regarding the objection based on the dependency of claims 4, 11, 18, and 25 on cancelled claims 3, 10, 17 and 24, claims 4, 11, 18, and 25 have been amended so that they depend on independent claims 1, 8, 15, and 22. Accordingly, This objection is believed to be overcome and withdrawal of the objection is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

The Applicant respectfully submits that claims 1, 2, 4, 8, 9, 11, 15, 16, 18, 22, 23 and 25 are not unpatentable over Dumarot in view of Sugino. The present invention, as set forth in amended claims 1, 8, 15 and 22, recites the features of “a tab for each respective parameter and the current values of each of the parameters and controls that allow the current values of the parameter to be modified are displayed in a parameter panel and the measurements of performance affected by the values of the parameters and controls that allow for the values of the parameters to be determined are displayed in a measurement panel.”

The optimizer GUI disclosed by Dumarot does not display information as claimed by claims 1, 8, 15 and 22. Dumarot discloses a method of optimizing the operation of a computer system in running application programs in accordance with system capabilities, user preferences and configuration parameters of the application program. Dumarot discloses records in a database that can be optimized to enhance systems performance. Dumarot discloses modifying entries in a configuration file or database. While these entries may be modified while the application being optimized is running, Dumarot does not disclose that the modifications take effect in real-time nor does Dumarot disclose that information, such as a specific control parameter, is displayed along with measurement

performance values related to the specific control parameter in a display. Dumarot also fails to disclose that a tab for each respective parameter and the current values of each of the parameters and controls that allow the current values of the parameter to be modified are displayed in a parameter panel and the measurements of performance affected by the values of the parameters and controls that allow for the values of the parameters to be determined are displayed in a measurement panel.

Sugino does not cure the deficiencies of Dumarot. While Sugino appears to disclose displaying configuration information in real-time and in response to the selection of a tab, it does not appear to disclose displaying a measurement panel and a performance panel in response to the selection of the tab, where the measurement panel displays measurements of performance affected by the values of the parameters and controls that allow for the values of the parameters to be determined and the performance panel displays the current values of each of the parameters and controls that allow the current values of the parameter to be modified. Accordingly, the combination of Dumarot and Sugino does not teach the invention of claims 1, 8, 15, and 22.

Therefore, claims 1, 8, 15, and 22, and claims 2, 4, 9, 11, 16, 18, 23 and 25 which depend therefrom, are not unpatentable over Dumarot in view of Sugino.

The Applicant respectfully submits that claims 5, 6, 12, 13, 19, and 20 are not unpatentable over Dumarot in view of Sugino and APA because even if Dumarot, Sugino, and APA were combined as suggested by the Examiner, the result still would not disclose or suggest the requirements of claims 1, 8, 15, and 22. Therefore, claims 5, 6, 12, 13, 19, and 20 are not unpatentable over Dumarot in view of Sugino, and APA.

The Applicant respectfully submits that claims 7, 14, and 21 are not unpatentable

over Dumarot in view of Sugino, APA, and further in view of Bowker, for at least the same reasons discussed above with respect to claims 1, 8, 15, and 22.

Each of the claims now pending in this application is believed to be in condition for allowance. Accordingly, favorable reconsideration of this case and early issuance of the Notice of Allowance are respectfully requested.

Additional Fees:

A petition and fee for a two month extension of time is provided herewith extending the time to respond until May 24, 2020. The Commissioner is hereby authorized to charge any insufficient fees or credit any overpayment associated with this application to Deposit Account No. 50-4545 (5231-088-US01).

Conclusion

In view of the foregoing, all of the Examiner's rejections to the claims are believed to be overcome. The Applicants respectfully request reconsideration and issuance of a Notice of Allowance for all the claims remaining in the application. Should the Examiner feel further communication would facilitate prosecution, he is urged to call the undersigned at the phone number provided below.

Respectfully Submitted,

/Chadwick A. Jackson, Reg. No. 46,495/

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